

REMARKS

Status of Claims

Claims 1-12 are pending, of which claim 1 is independent.

Claims 1 and 5 have been amended to correct informalities in the claim language and to more clearly define the claimed subject matter. Claims 6-12 have been added. Support for the amendment and the new claims is found, for example, at the drawings and page 2, lines 15-17, page 2, lines 27-30, page 3, lines 2-6, page 3, lines 10-12, page 3, line 19 and page 3, lines 28-31 of the specification. No new matter has been added.

Objection to the Specification and Claim 1

The Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. The Examiner also objected to claim 1. Applicants submit that the amendment made to claim 1 overcomes this objection.

Rejection under 35 U.S.C. § 112

Claims 1-5 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants submit that the amendment made to claim 1 overcomes this rejection.

Rejection under 35 U.S.C. § 103

Claims 1-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Slivka et al. (US 6,049,671) in view of Cheng et al. (US 6,151,643). This rejection is traversed for at least the following reasons.

Applicants respectfully submit that, at a minimum, none of the cited references discloses or suggests the step of *determining, by the secure kernel, whether a configuration file exists on the network appliance*, as recited by amended claim 1. The Examiner asserts that Slivka discloses that the alleged secure kernel checks the authenticity of the alleged configuration file. However, Slivka appears to disclose that the alleged secure kernel checks the authenticity of newly downloading file (see, FIG. 4A, col. 5. line 66 to col. 6, line 56 of Slivka). Further, in Slivka, the service update application in the host computer conducts an automatic inventory of the computer software on the user computer. As such, it is clear that Slivka fails to disclose the step of checking, by the secure kernel, whether a configuration file exists on the network appliance, and then check the authenticity of the existing configuration file, as recited by claim 1. It is also clear that Cheng fails to disclose the above identified feature of claim 1, and it would not have been obvious to add this feature to the combination of Slivka and Cheng.

Accordingly, Applicants respectfully submit that claim 1 and all claims dependent thereon are patentable over the cited references. Thus, it is requested that the Examiner withdraw the rejection of claim 1-5 under 35 U.S.C. § 103(a).

New Claims

Since new claims 6-12 depend upon claim 1, claims 6-12 are patentable over the cited references. Further, since none of the cited references discloses or even suggests the subject matter of claims 6-12, new claims 6-12 are patentable on their own merit in addition to the dependency upon claim 1.

CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Takashi Saito
Limited Recognition No. L0123

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF:TS:MaM
Facsimile: 202.756.8087
Date: August 23, 2010